

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion is respectfully requested.

Claims 15 and 19 are pending in the present application, and are amended by the present amendment. Support for the amended claims can be found in the original specification, claims and drawings.¹ No new matter is presented.

In the Office Action, the title, specification and Claim 19 are objected to because of minor informalities; Claim 15 is rejected under 35 U.S.C. § 101; Claims 15 and 19 are rejected under 35 U.S.C. § 112, second paragraph; and Claims 15 and 19 are rejected under 35 U.S.C. § 103(a) as unpatentable over RFC 1898 (herein, CyberCash) in view of Official Notice.

In response to the objection to the title and specification, the title is amended to be more descriptive, and the specification is amended to correct various minor grammatical errors beyond those noted in the Office Action. The Office Action further objects to Claim 19, requesting that the phrase “configured to” be changed to “programmed to”. In response, Claim 19 is amended as requested in the Office Action.

Accordingly, Applicants respectfully request that the objection to the title, specification and Claim 19 be withdrawn.

The Office Action rejects Claim 15 under 35 U.S.C. § 101, as directed to non-statutory subject matter. In response, Claim 15 is amended to recite that the method is performed by a system including “particular” machines. More specifically, Claim 15 is amended to recite that the system includes “a wireless terminal apparatus”, “a service providing server” and “an authentication and payment server”. Claim 15 is further amended

¹ e.g., specification, at least at Figs. 3-5 and their corresponding description in the specification.

to recite that each of the features recited in this claim are performed by at least one of the above noted “particular machines”, or a particular component of one of the machines.

Accordingly, Applicants respectfully request that the rejection of Claim 15 under 35 U.S.C. § 101 be withdrawn.

The Office Action rejects Claims 15 and 19 under 35 U.S.C. § 112, second paragraph, noting that the claims lack antecedent basis for the phrase “if the payment processing”. Claims 15 and 19, however, are amended to omit this phrase, thereby rendering this rejection moot.

The Office Action rejects Claims 15 and 19 under 35 U.S.C. § 103(a) as unpatentable over CyberCash in view of Official Notice. Applicants respectfully traverse this rejection.

Amended independent Claim 15, for example, recites an operation method of an authentication and payment system including a wireless terminal apparatus, a service providing server, an authentication and payment server, and a network connecting the wireless terminal apparatus, the service providing server, and the authentication and payment server, comprising:

receiving, by a network transceiver of the wireless terminal apparatus from a network transceiver of the authentication and payment server, ***a certificate of service including a reference amount;***
issuing, from the network transceiver unit of the wireless terminal apparatus, a request for use of a service attached with the certificate of service to the service providing server ...
comparing, at the service providing server, ***the reference amount in the certificate of service with an amount of payment*** to determine that the amount of payment is less than or equal to the reference amount; and
providing, by the service providing server, the requested service to the wireless terminal apparatus ***before the service providing server generates an authentication and payment message that is sent to the authentication and payment server based on the determination that the amount of payment is less than or equal to the reference amount.***

Independent Claim 19, while directed to an alternative embodiment, recites similar features. Further, Applicants respectfully acknowledge the indication in the sentence spanning pp. 10-11 of the Office Action that “... the use of ‘programmed to’ would positively

recite the function of the individual units in a way that is sufficient to distinguish it from the prior art ...” Therefore, as Claim 19 is amended to recite “programmed to” instead of “configured to”, as requested in the Office Action, Applicants respectfully submit that Claim 19 is in condition for allowance.

In rejecting Claim 15, the Office Action asserts that CyberCash teaches all the elements recited in this claim with the exception of “comparing the reference amount...”, “generating ... “ and “providing...”. In an attempt to remedy these deficiencies, the Office Action relies on Official Notice.

More particularly, the Office Action takes Official Notice that “not immediately generating said message if the amount paid is smaller than said amount was old and well know because it allows for the polling of payments, a cheaper alternative to billing each transaction immediately.” The Office Action continues by stating that “[i]t was well known ... that credit card issuers charge a certain fee to merchants whenever a credit card is used ...” and “merchants cut their losses by imposing a minimum amount that a customer must purchase to use the credit card ...”

Applicants, however, respectfully submit that even if CyberCash were to be modified to include the concept of “polling” payments, as discussed above, the reference would still fail to teach or suggest all the features recited in independent Claim 15.

As noted above, independent Claim 15 recites that the wireless terminal is issued a ***certificate of service including a reference amount*** from the authentication and payment server. The wireless terminal then submits the certificate along with a request for use of a service to a service providing server, which ***compares the reference amount in the certificate of service with an amount of payment*** to determine that the amount of payment is less than or equal to the reference amount. The service providing server then provides the requested service to the wireless terminal apparatus ***before the service providing server***

generates an authentication and payment message that is sent to the authentication and payment server based on the determination that the amount of payment is less than or equal to the reference amount.

Therefore, the claimed configuration allows for a comparison between an reference amount included in a certificate previously issued to the wireless terminal and an amount of payment for a requested service to determine that the service may be provided without first sending a message for authorization to the authentication and payment server.

CyberCash, on the other hand, even if modified to include the payment polling technique discussed above, fails to perform a comparison between *the reference amount in the certificate of service with an amount of payment*, before providing a service without first sending a message for authorization to the authentication and payment server. Instead, as characterized in the Office Action, a merchant in CyberCash would merely determine whether the purchase price of an item would exceed a threshold, then, based on that determination alone, determine whether to deny the use of a credit card or poll the small purchases in a combined transaction. Therefore, even if the CyberCash system were modified to include the payment polling feature, the reference would still not perform a comparison between *the reference amount in the certificate of service with an amount of payment*, before providing a service without first sending a message for authorization to the authentication and payment server, as claimed.

Therefore, for at least the reasons outlined above, Applicants respectfully submit that CyberCash, even if modified as proposed in the Office Action, fails to teach or suggest a method in which a wireless terminal is issued a *certificate of service including a reference amount* from the authentication and payment server, the wireless terminal submits the certificate along with a request for use of a service to a service providing server, which *compares the reference amount in the certificate of service with an amount of payment* to

determine that the amount of payment is less than or equal to the reference amount, and the service providing server provides the requested service to the wireless terminal apparatus ***before the service providing server generates an authentication and payment message that is sent to the authentication and payment server*** based on the determination that the amount of payment is less than or equal to the reference amount, as recited in independent Claim 15.

Further, Applicants respectfully submit that official notice is not permissible as grounds for rejection in the outstanding Official Action. As stated in the MPEP at § 2144.03(A):

It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21.

With regard to the above, Applicants respectfully submit that the above noted polling feature is not “capable of instant and unquestionable demonstration as being well-known” based on the CyberCash system alone. More particularly, CyberCash is directed to a method of performing credit card transactions with a server regardless of the amount of the transaction. Therefore, the polling system described in the Office Action not “capable of instant and unquestionable demonstration as being well-known” based on the reference, because in one instance a credit card transaction is denied (in the case of imposing a minimum transaction amount), or small transactions are polled together in a larger single transaction, which clearly teaches against the transaction-by-transaction process described in CyberCash.

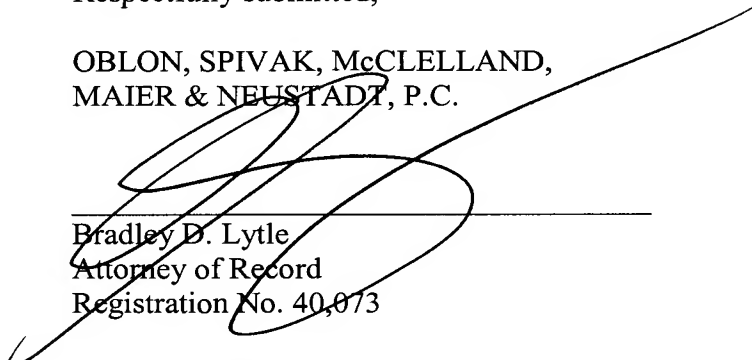
Should Official Notice be maintained as a grounds for rejection in this case, Applicants request a “citation to some reference work recognized as standard in the pertinent art”, as required above.

Accordingly, Applicants respectfully request that the rejection of Claim 15 under 35 U.S.C. §103 be withdrawn.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 15 and 19 is definite and patentably distinguishing over the applied references. The present application is therefore believed to be in condition for allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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